

SENATE BILL 2353
By Ketron

AN ACT to authorize the City of Columbia to levy and collect an adequate facilities privilege tax on new development in the city in order to provide that new development contribute its fair share on the cost of providing public facilities and services made necessary by such new development.

WHEREAS, the population of the City of Columbia grew twenty-four percent (24%) from 1980 to 2000; and

WHEREAS, the City of Columbia's population was 33,000 according to the census in 2000 and is currently estimated to be approximately 38,000; and

WHEREAS, the City of Columbia's growth is expected to continue because of I-840 and other factors causing growth to spread southward into Columbia; and

WHEREAS, the City of Columbia's population will exceed 60,000 before 2025 and the need for more dwellings, buildings and facilities will accompany the growth; and

WHEREAS, the City of Columbia's present revenue raising authority is limited and relies heavily on intergovernmental transfers which are not subject to City control and on property taxes, which would impose the costs of new growth on existing residents and taxpayers rather than on new residents and businesses who create the demand for such additional expenditures; and

WHEREAS, the City of Columbia is committed to both present and future City residents in maintaining a level of public facilities and services commensurate with those presently provided; and

WHEREAS, the City of Columbia's present population, employment base, tax base, and budget cannot alone support the additional revenues needed to supply facilities to serve new growth without a substantial increase in the property tax rate on existing development; and

WHEREAS, due to these circumstances, it is necessary and appropriate that the City of Columbia be given authorization to extend its power for raising revenue to enable the City to impose a fair and reasonable share of the costs of public facilities necessitated by new residential and commercial development on such new development so as not to create an unfair and inequitable burden on existing City residents and taxpayers; and

WHEREAS, there is precedent in the State of Tennessee for such additional revenue measures to impose costs on those who benefit the most from improvements and where the result would otherwise be to impose an unfair burden on existing residents and taxpayers; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and cited as the "Columbia Adequate Facilities Privilege Tax".

SECTION 2. As used in the act, unless a different meaning appears from the context:

(1) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a manufactured home.

(2) "Building permit" means a permit for development issued in Columbia.

(3) "Certificate of occupancy" means a license for occupancy of a building or structure issued in Columbia; including any temporary documents that may be issued.

(4) "Developer" means an individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.

(5) "Direct replacement structures" means any structure erected to replace a structure damaged by fire or other natural disaster which results in no increase in floor area, dwelling unit number, or other dimension that would otherwise be subject to a pro-rata fee or tax.

(6) "Dwelling unit" means a room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis, physically separated from any other

rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

(7) "Floor area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two feet (2') within the roof line of any building or portions thereof without walls, but excluding in the case of nonresidential facilities: arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(8) "Governing body" means the City Council of Columbia, Tennessee.

(9) "Land development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to or increases the floor area of a residential or non-residential use.

(10) "Non-residential" means the development of any property for any use other than residential use, except as may be exempted by this act.

(11) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of building which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(12) "Public buildings" means a building owned by the state or any agency thereof, a political subdivision of the state, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(13) "Public facilities, public improvements" means a physical improvement undertaken by the city, including, but not limited to, the following: roads and bridges,

parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities, and any other governmental capital improvement benefiting the citizens or utility customers of the city as defined in Tennessee Code Annotated, section 9-21-105(21)(A) or (B).

(14) "Residential" means the development of any property for a dwelling unit or units.

SECTION 3. It is the intent and purpose of this act to authorize the City of Columbia to establish a regulatory procedure or system to collect an adequate facilities privilege tax from the developer of any new land development activity so as to require the developer to share in the burdens of the growth by paying its pro rata share for the reasonably anticipated expansion cost of public improvements generated by the new land development activity.

SECTION 4. Engaging in the act of development within Columbia, except as provided in Section 6 herein, is declared to be a privilege upon which Columbia may, by ordinance of the governing body, levy a tax in an amount not to exceed the rate set forth in Section 7.

SECTION 5. The governing body shall impose the tax authorized herein by ordinance. The ordinance of the governing body imposing this tax shall state the rate of tax on new residential and non-residential development. The governing body shall, by ordinance, adopt administrative guidelines, procedures, regulations, and forms necessary to properly implement, administer and enforce the provisions of this act.

SECTION 6. This act shall not apply to development of:

- (1) Public buildings;
- (2) Places of worship;
- (3) Direct replacement structures for previously existing structures destroyed by fire or other disasters, but only if replaced within one (1) year of the loss; or
- (4) A structure owned by a nonprofit organization that is a qualified 501(c)(3) corporation under the Internal Revenue Code.

SECTION 7. For the exercise of the privilege described herein, Columbia may impose a tax on new development not to exceed:

(1) One dollar and fifty cents (\$1.50) per gross square foot floor area of new residential development; or

(2) Three dollars (\$3.00) per gross square foot floor area of new non-residential development.

The City of Columbia may develop a tax rate schedule by which residential and non-residential uses are classified by type for the purpose of imposition of the tax authorized herein.

SECTION 8. The governing body shall provide a schedule and method for the payment of the tax in a manner appropriate to the particular circumstances of the proposed new development. The ordinance may require the payment of a tax before a building permit is issued or, if a building permit is not required, at the time of issuance of a certificate of occupancy by the city official duly authorized in such jurisdiction to issue building permits or certificates of occupancy.

SECTION 9. All tax funds collected shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.

SECTION 10. The authority to impose this adequate facilities privilege tax on new development in the City of Columbia is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising or land development regulatory measures granted either by the private or public acts of the state and the imposition of such tax, in addition to any other authorized tax, fee, assessment, charge, shall not be deemed to constitute double taxation.

SECTION 11. The provisions of this act shall in no manner repeal, modify, or interfere with the operation of any general abutting property law or any special or local assessment or abutting property law enacted for the benefit of Columbia. This act shall be deemed to create an additional and alternative method for Columbia to collect fees for the purpose of defraying the costs of capital or public improvements.

SECTION 12. If any word, phrase, sentence, paragraph, or other provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other word, phrase, paragraph, or other provision or application of this act which can be given effect without the invalid provision or application, and to that end the provisions this act are declared to be severable.

SECTION 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the governing body of the City of Columbia. Its approval or nonapproval shall be proclaimed by the presiding officer of the governing body and certified by said officer to the secretary of state.

SECTION 14. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in Section 13.